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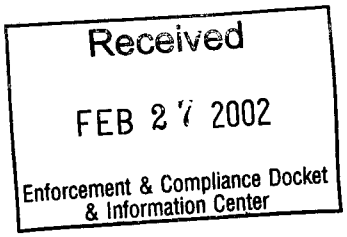

Feb 27, 2002

Docket Officer, Docket No. EC-2000-007
Enforcement and Compliance Docket and Information Center
Room 4033
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Sir or Madam:

Re: EPA proposed Rule, Establishment of Electronic Reporting, Electronic Records and Record Keeping

Georgia-Pacific Corporation ("G-P") welcomes the opportunity to comment on EPA's proposed Cross-Media Electronic Reporting and Record Keeping Rule (CROMERRR), 66 Fed. Reg. 46162 (Aug. 31, 2001). G-P is a major manufacturer of pulp, paper and wood products, with facilities located throughout the United States that are subject to EPA record keeping requirements. If CROMERRR is adopted as proposed the majority of G-P facilities will be directly affected.

In addition to submitting the following comments, G-P as a member of both the American Chemistry Council ("ACC") and the Coalition for Effective Environmental Information ("CEEI") wish to support and incorporate those comments here by reference. After careful review of the proposal G-P can conclude only that the proposal creates barriers rather than eliminating them; is far more wide - sweeping than authorized by the Government Paperwork Elimination Act ("GPEA") and is so fundamentally flawed that we must recommend withdrawal of the entire proposal. Further, the GPEA does not mandate that agencies and departments promulgate rules in order to enable electronic signature and reporting. EPA may not need to take any further action in order to meet its GPEA obligation.

G-P Supports Electronic Signatures and Reporting

G-P strongly supports EPA's role/responsibilities in providing quality information to the American public. Particularly as an active, founding member of CEEI, we have embraced the concepts of incorporating electronic signature and reporting capability into EPA's and the states' reporting systems. We recognize the importance of electronic signature and electronic reporting capability in advancing the effort to improve the accuracy, quality and timeliness of existing reporting systems and in providing the basis for the further work needed to evaluate and improve data quality. Thus, we were enthused when EPA staff hosted a public meeting to discuss plans to address the core objective of the Government Paperwork Elimination Act (GPEA) to "enable" electronic signature and reporting.

EPA's Rulemaking Not Necessary to Implement GPEA

The GPEA is intended to extend the burden reduction goals to environmental reporting and recordkeeping and to ensure that electronic records are not treated "less favorably than their paper counterparts." The GPEA simply requires Federal agencies to allow the option of electronic reporting where practicable. While GPEA does not provide explicit guidance to EPA in how to implement the Act's requirements, it and the Office of Management and Budget (OMB) guidance clearly state that procedures developed by an agency may not deny electronic records any "legal effect, validity or enforceability" simply because it is electronic.

Electronic methods already are the predominant mechanism by which the regulated community generates and maintains environmental records. To our knowledge, no current obstacles to electronic record keeping have been identified. Most existing EPA regulations are silent on the question of whether paper or electronic formats for records are acceptable. Thus, EPA may not need to take any action in order to meet its GPEA obligation.

To the extent that there may have been a question about the acceptability of electronic records to satisfy state or EPA requirements, the issue has been resolved by the practice of state and EPA enforcement staffs. Every year a variety of agencies conduct environmental inspections of facilities that are subject to EPA regulations. These inspections commonly include a review of facility records as well as often copying and accepting copies of facility records kept in electronic format. Due to the volume, calculations and transformations of collected data required by permits, much of the information on emissions and effluent data can only be collected and stored by a computer. Furthermore, much of the laboratory analysis required to identify chemical and other substances can only be conducted using electronic instruments. Little operating data is kept exclusively on paper as the large amounts of data that are generated and must be kept could not be managed without computers.

Unfortunately, as a result of EPA's proposed rule about "authorizing" programs, some EPA program offices have begun to question if electronic record keeping and reporting currently are permitted unless specifically authorized. The GPEA does not mandate that

agencies and department promulgate rules in order to enable electronic signature and reporting. In fact, we understand that no other Federal agency or department has proposed a rule to implement the GPEA requirements, but rather have taken action through policy memos or guidance. If the Agency believes it must take some action in order to clear up any confusion that may have arisen based on the "authorizing" discussion in the proposed rule, EPA could simply issue a clear statement recognizing electronic records by adopting the GPEA language.

EPA has Misconstrued GPEA Burden Reduction Objective

The GPEA is a burden reduction statute that requires costs and impacts to be considered. The GPEA was intended to facilitate electronic reporting by requiring agencies to (a) "provide for the option of the electronic maintenance... of information, when practicable;" and (b) not to deny legal effect, validity or enforceability of electronic records.

EPA has dismissed the need to consider costs, based on the claim that participation is voluntary. Further, EPA assumed that only a small percentage of the regulated public would choose to use the opportunity to file electronically, contrary to actual practice. Even in those few instances where EPA assumed some voluntary participation would occur, EPA's cost figures grossly underestimated the costs associated with individual companies. Nor did EPA give any consideration to the impact of the conversions necessary for systems not controlled by the regulated community, but maintained by outside contractors or laboratories that work closely with the regulated community.

Further, there is no authorization within the GPEA to "improve the level of corporate and individual responsibility and accountability.... that currently exists in the paper environment." as EPA proposes to do. In addition, the proposed requirements would exceed reliability associated with paper records and therefore, are not "generally equivalent" as required in the GPEA.

Electronic Record Keeping Not Voluntary: Broad Definition Encompasses All Environmental Data, Records

The August 31 proposal describes electronic document submission or electronic record keeping as "totally voluntary," that is EPA would not require the submission of electronic documents or maintenance of electronic records in lieu of paper documents or records. While the intent of the proposal may, indeed, only have been to enable electronic signatures and reporting, all electronic record keeping has been drawn into the regulatory scheme as well. A multitude of systems are in place, operating, and have become an integral part of how industry collects and manages data. Industry has had no choice but to utilize electronic record keeping due to the large amounts of data that must be collected, stored and condensed: it is not an optional activity. It would be unreasonable for EPA to classify such a rule as voluntary, then pull all existing facilities into the rule involuntarily. There is no way to eliminate "electronics" from any part of record keeping. Any data

responsive to EPA record keeping requirements that was collected on a computer system would meet the definition of "electronic record." Unfortunately, existing systems, while captured in the program, would not meet the EPA requirements and would require replacement or substantial modification.

EPA Ignores Existing Practices and Proposes to Create a Costly New Framework

EPA states that electronic record keeping to meet EPA record keeping requirements may not begin until EPA publishes a Federal Register notice to that effect, sometime in the future. EPA has not been clear about what it considers to be inadequate with the current systems. In fact, in many instances EPA seems to ignore the fact that an enormous amount of data already is kept and transmitted electronically.

For over ten years our facilities have used computers on a daily basis to collect information that has been mandated by EPA record keeping requirements. Much of the information on emissions and effluent data can only be collected by a computer. Industries already are keeping EPA mandated records electronically and some EPA regulations explicitly require electronic record keeping (e.g., continuous emission monitoring systems for air emissions monitoring). Others are media-neutral, thus implicitly authorizing electronic record keeping. Yet EPA proposed to set new requirements and would appear to reject all existing systems until "brought into their systems." Does EPA intend to amend any existing record keeping requirements with this "voluntary" proposal or to halt all electronic record keeping until sometime in the future after further EPA rulemaking? Does EPA intend to suspend existing regulations ((e.g., 40 CFR 63) where electronic record keeping is required? It is apparent that EPA has not carefully thought through this proposal.

EPA Proposed Long Term Retention of Particular Concern

The Agency appears to not appreciate the sheer volume of data that is generated with even the simplest monitoring systems. Attachment (1) is an example from one of G-P's plywood plants to illustrate the magnitude of record keeping at a relatively small industrial site. Most other manufacturing facilities have multiple individual systems for tracking specific operations and parameters at every facility. Our example does not illustrate all the reporting systems within the facility, but simply focuses on the example of the two simple parameters that are required to be monitored to document our permit compliance requirements to reduce emissions with the use of Regenerative Thermal Oxidizers (RTO's). The facility is required to calculate 15 minute averages for Flow and Temperature. These then are averaged into 2 – 12 hour averages per day. Readings are taken every 10 seconds from the monitoring equipment. This raw data automatically is averaged to provide 15-minute averages that are averaged to give the-2 – 12 hour averages per day.

Although the facility is required to report only 2 parameters for this specific requirement, there may be as many as 30 parameters of the RTO process that continually are tracked

electronically to insure proper operation of the RTO. The raw data files from one day of measurements can grow as large as 1 megabyte (MB).

The aforementioned is for a single plywood plant. G-P is composed of approximately 290 manufacturing facilities that operate in various business units. These operating units include: Lumber, Structural Panels, Industrial Wood Products, Gypsum, Wood & Fiber Procurement, Distribution, Containerboard, Consumer Products, Paper & Bleached Board, Chemical, Packaging, Fluff Pulp, Unisource Worldwide and Market Pulp. While these all fall under the broad G-P corporate umbrella, each business unit has its own type of operations. In addition, each facility within an operating unit typically will have unique characteristics based on a variety of factors, such as age of a facility, size of facility, etc. EPA's proposal suggests that all this data be kept for the lifetime of the facility without regard to the problems of storage, legacy systems or cost.

Fraud: EPA has Not Established a Record Necessary to Support the Audit Trail Provision

EPA suggests the extensive proposed record keeping provisions are necessary in order to address a "fraud" problem. EPA has not defined the nature or extent of this perceived problem, nor has the Agency taken any steps to measure the effectiveness of record keeping security currently in place. EPA's position seems to be counter to that of OMB guidance that suggests a low likelihood of fraud in cases of on-going regulator/regulated relationships not involving money. The greatest opportunity for "fraud" occurs when a data element originally is entered into a record, whether by hand, keyboard or electronic signal - such as false data in scientific studies. Electronic or manual audit trails can never detect this type of intentional fraud should it occur.

There are technical and institutional constraints to tampering with existing documents. Many of these documents serve as important business records that companies want to be accurate. Such tampering opens the company and the employees to criminal prosecution. Companies and employees generally do not take such risks. Further, as most environmental/operational data is shared among employees, there would have to be a grand conspiracy to sustain systematic tampering: that is extremely unlikely. In electronic monitoring systems, such tampering can be technically difficult. Moving to electronic systems actually will reduce the likelihood of fraud.

We do not wish to simply dismiss EPA's concerns about fraud. However, any such proposal should be grounded in experience; some documentation to show that the proposal is based on experience; and more extensive discussions of the effect of e-records on accuracy as well as the costs and benefits associated with such an initiative.

It is interesting to note that the Internal Revenue Service (IRS) for years has encouraged and facilitated electronic reporting in an area most critical to the operation of the government. The IRS has correctly implemented the GPEA by making electronic

reporting a viable option without placing extensive and unnecessary encumberances and costly restrictions on their use.

Costs Clearly Far Beyond EPA Estimates

EPA assumed that only a small percentage of the regulated pubic would choose to use the opportunity to file electronically, contrary to actual practice. Even in those few instances where EPA has calculated that electronic reports will be filed, EPA's own cost figures have grossly underestimated the costs associated with individual companies, without even considering outside contractors and laboratories. EPA estimates that a compliant "low-end" electronic reporting system would cost $40,000 initially and $17,000 annually. While we have no way to calculate the true costs of EPA's proposal, based on our experience we are certain that the Agency has been unduly optimistic in assuming that certain capabilities exist now and that upgrades to the systems may be minimal. There is no doubt but that this proposal triggers the Executive Order on Regulatory Flexibility (EO #12866) and is of "economic significance,"contrary to EPA's position.

In the mid-90's, G-P purchased a corporate license for new software that would have provided electronic access to all our facility and business units. Installation began at 6 or 7 pilot plants selected from various size and type facilities. G-P spent more than $6 Million for the software license and for the consultant to implement the software. Simply, the software never worked. Not only was the software undersigned, it had never been tested and, in fact, existed in theory only. The issue ended up in court, with the court allowing G-P to proceed against the software manufacturer under fraud and RICO theories. **G-P learned from this experience that concepts of manipulations to software to try to accomplish a seemingly simple task are easy in concept but present many costly and disruptive implementation problems.**

We have concerns that a similar fate could occur with EPA's proposal. EPA appears to have undue optimism about the capabilities of the regulated community. Nothing in EPA's record for this rulemaking indicate that EPA has begun to adequately estimate these costs.

Audit trail capability is not a standard feature of existing software. Conversion of our software to add such an audit feature would be at a substantial cost. Further, as indicated, G –P, like many others, does not have one system throughout the corporation. A wide range of software products currently in place would need conversion at considerable expense. As an example, the Year 2000 problem, common to most businesses, concerned the inability of systems to properly recognize and process dates and date sensitive information on and beyond January 1, 2000. In order to test all key systems and modify or replace noncompliant software or technology G-P incurred approximately $30 million of incremental costs (including approximately $4 million of capital costs). In addition, G-P incurred internal costs totaling approximately $17 million in G-P employee efforts related to the problem, with an additional $1 million incurred during the first half of 2000 for related incremental and internal costs.

Recommendations

After careful review of the proposal G-P can conclude only the proposal creates barriers rather than eliminating them; is far more wide - sweeping than authorized by the GPEA and is so fundamentally flawed that **we must recommend withdrawal of the entire proposal**.

We do appreciate EPA's responsiveness when questions were raised with the Office of Environmental Information about the potential unintended consequences of the proposal. Electronic reporting should impose no more stringent standards for record keeping than that for a paper format. However, there also are a host of questions and varying statutory requirements regarding the length of time records must be kept.

The Agency twice extended the comment period and held several public meetings in order to gain a better understanding of the proposal's potential impact on the regulated community. Without this additional time EPA would not receive thoughtful and useful comments. We believe this has provided the opportunity to begin a forthright dialogue of the shortcomings of the proposal and the need to carefully examine the question of recordkeeping – in both electronic and paper format.

It is appropriate for the Office of Environmental Information, as part of its responsibility for developing consistent data management through the various media programs, to take the lead in organizing a review of the various existing recordkeeping requirements and develop a set of recommendations for improvements that can be made, either administratively or with additional statutory direction if necessary. Such an activity, of course, would benefit with input from the regulated industry, as well as the states, other interested citizens and organizations. EPA might consider creating a multi-stakeholder group to review the current system, consider record keeping requirements and develop recommendations for the Agency. Such a project would require a sustained effort on the part of many, not given to development from one or two public meetings.

G-P appreciates the opportunity to comment on CROMERRR and look forward to continued work with the Agency to development an improved, useful information system.

Sincerely,

Patricia K. Wood

Patricia K. Wood
Manager, Federal Regulatory Affairs

Attachment: "Doing the math"

2	parameters
Flow	
Flow Date	
Flow Time	
Temperature	
Temperature Date	
Temperature Time	
6	data points
For 1 week	
6	data points
7	days
24	hours/day
60	minutes/hour
6	10 second blocks/minute
362880	"Raw Data Points"
is consolidated to	
28	12 hour averages
For 1 year	
6	data points
365	days
24	hours/day
60	minutes/hour
6	10 second blocks/minute
18,921,600	"Raw Data Points"
is consolidated to	
1460	12 hour averages
For 5 years (permit life)	
6	data points
1825	days
24	hours/day
60	minutes/hour
6	10 second blocks/minute
94,608,000	"Raw Data Points"
is consolidated to	
7300	12 hour averages

BUT we actually monitor 30 parameters

so....

30	parameters
90	data points
For 1 week	
90	data points
7	days
24	hours/day
60	minutes/hour
6	10 second blocks/minute
5,443,200	"Raw Data Points"
is consolidated to	
420	12 hour averages
For 1 year	
90	data points
365	days
24	hours/day
60	minutes/hour
6	10 second blocks/minute
283,824,000	"Raw Data Points"
is consolidated to	
21900	12 hour averages
For 5 years (permit life)	
90	data points
1825	days
24	hours/day
60	minutes/hour
6	10 second blocks/minute
1,419,120,000	"Raw Data Points"
is consolidated to	
109500	12 hour averages

Current systems could not simply be upgraded to allow access.

Options to access these machines remotely:

- Install the cabling to connect the computer to the network. Purchase firewall software to allow EPA/contractor to access the machine over the internet.
- Install phone line to the building where the computer is kept. Purchase access software to allow EPA/contractor to remotely control the computer.

Both of these options would likely necessitate someone having to monitor the machines to ensure that a hacker, upset former employee, or unscrupulous EPA engineer/contractor/environmentalist did not attempt to modify the data. Now a formerly secure system is now unsecure due to the remote access.

There is also the other issue that we currently have to archive the raw data frequently (weekly) and the 15 minute averages periodically (at least every 6 months) to get the data out of the database. If this is not done, it can take a long time for the PC to compute the 12-hour averages.